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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 622

[Docket No. 140903744-5015-01]

RIN 0648-BE46

Fisheries of the Caribbean, Gulf of Mexico, and South Atlantic;
Shrimp Fishery of the Gulf of Mexico; Amendment 16

AGENCY: National Marine Fisheries Service (NMFS), National
Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Proposed rule; request for comments.

SUMMARY: NMFS proposes regulations to implement Amendment 16 to the Fishery Management Plan for the Shrimp Fishery of the Gulf of Mexico (FMP), as prepared and submitted by the Gulf of Mexico (Gulf) Fishery Management Council (Council). If implemented, this proposed rule would revise the annual catch limit (ACL) for royal red shrimp, remove the royal red shrimp quota, and revise the accountability measures (AMs) for royal red shrimp to remove an inconsistency in the regulations. The intent of this rule is to prevent overfishing of the royal red shrimp resource while helping to achieve optimum yield and reconcile conflicting Federal regulations.

DATES: Written comments must be received on or before [insert

date 30 days after date of publication in the FEDERAL REGISTER].

ADDRESSES: You may submit comments on the proposed rule, identified by "NOAA-NMFS-2014-0030" by any of the following methods:

- Electronic Submission: Submit all electronic public comments via the Federal e-Rulemaking Portal. Go to www.regulations.gov/#!docketDetail;D=NOAA-NMFS-2014-0030, click the "Comment Now!" icon, complete the required fields, and enter or attach your comments.
- Mail: Submit written comments to Susan Gerhart, Southeast Regional Office, NMFS, 263 13th Avenue South, St. Petersburg, FL 33701.

Instructions: Comments sent by any other method, to any other address or individual, or received after the end of the comment period, may not be considered by NMFS. All comments received are a part of the public record and will generally be posted for public viewing on www.regulations.gov without change. All personal identifying information (e.g., name, address, etc.), confidential business information, or otherwise sensitive information submitted voluntarily by the sender will be publicly accessible. NMFS will accept anonymous comments (enter "N/A" in the required fields if you wish to remain anonymous).

Attachments to electronic comments will be accepted in Microsoft

Word, Excel, or Adobe PDF file formats only.

Electronic copies of Amendment 16, which includes an environmental impact statement, a Regulatory Flexibility Act analysis, and a regulatory impact review, may be obtained from the Southeast Regional Office Web Site at http://sero.nmfs.noaa.gov/sustainable_fisheries/gulf_fisheries/shrimp/2014/am16/index.html.

FOR FURTHER INFORMATION CONTACT: Susan Gerhart, telephone: 727-824-5305, or e-mail: Susan.Gerhart@noaa.gov.

SUPPLEMENTARY INFORMATION: The shrimp fishery in the Gulf is managed under the FMP. The FMP was prepared by the Council and implemented through regulations at 50 CFR part 622 under the authority of the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act).

Background

The FMP was established in 1981, and the maximum sustainable yield for royal red shrimp was estimated at 392,000 lb (177.9 mt), tail weight, annually and specified as a fixed annual quota (46 FR 27489, May 20, 1981). This quota has remained in effect since that time. The Federal shrimp permit for the commercial harvest of penaeid shrimp in the Gulf exclusive economic zone (EEZ) has been placed under a moratorium since 2007 (71 FR 56039, September 26, 2006). The Gulf royal red

shrimp endorsement is an endorsement to the Gulf Federal shrimp permit that allows Gulf shrimp permit holders to commercially harvest royal red shrimp in the Gulf EEZ. On January 30, 2012, NMFS implemented regulations developed through the Generic ACL Amendment to multiple fishery management plans, including the Shrimp FMP (December 29, 2011, 76 FR 82044). That amendment included actions to establish the commercial ACL and AM for royal red shrimp. However, the "no action" alternatives and discussions in the Generic ACL Amendment incorrectly stated that there were currently no catch limits or AMs for royal red shrimp, even though a quota and in-season quota closure were in the regulations. As a consequence, through the Generic ACL Amendment, both a royal red shrimp ACL and AM were added to the regulations, but the existing quota and in-season quota closure provision were not removed. On March 11, 2014, NMFS published a notice of intent to prepare a supplemental environmental impact statement for Amendment 16 and requested public comment (79 FR 13623).

Federal regulations currently include a royal red shrimp ACL of 334,000 lb (151,000 kg), tail weight, and a quota of 392,000 lb (177.8 mt), tail weight. This rule would remove the royal red shrimp quota and update the ACL to 337,000 lb (152,861 kg), tail weight, which is equal to the acceptable biological

catch as recommended by the Council's Scientific and Statistical Committee at its March 2014 meeting.

Federal regulations currently include a royal red shrimp in-season closure if the quota is met or projected to be met, based on in-season monitoring (which functions as an AM), and include an AM that implements in-season monitoring and an ACL closure in the year following any ACL overage. The presence of two AMs in the regulations presents an inconsistency in the management of royal red shrimp. This rule would remove the in-season quota closure associated with the royal red shrimp quota and retain the AM associated with the ACL.

Gulf royal red shrimp commercial landings have not exceeded the proposed ACL of 337,000 lb (152,861 kg), tail weight, in the past 50 years. There has been a decline in the pounds of royal red shrimp landed over the past 10 years, and the number of vessels actively targeting royal red shrimp during that time has been less than 20 vessels, with fewer than 10 vessels landing royal red shrimp in most years. Therefore, there are likely to be no impacts on the Gulf shrimp fishery or the royal red shrimp stock resulting from this rule.

Classification

Pursuant to section 304(b)(1)(A) of the Magnuson-Stevens Act, the NMFS Assistant Administrator has determined that this

proposed rule is consistent with Amendment 16, the FMP, other provisions of the Magnuson-Stevens Act, and other applicable law, subject to further consideration after public comment.

This proposed rule has been determined to be not significant for purposes of Executive Order 12866.

The Chief Counsel for Regulation of the Department of Commerce certified to the Chief Counsel for Advocacy of the Small Business Administration (SBA) that this rule, if adopted, would not have a significant economic impact on a substantial number of small entities. The factual basis for this determination is as follows:

A description of this proposed rule, why it is being considered, and the objectives of this proposed rule are contained in the preamble and in the SUMMARY section of the preamble. The Magnuson-Stevens Act provides the basis for this proposed rule.

This proposed rule is expected to directly affect commercial fishermen holding valid or renewable Federal Gulf shrimp permits with accompanying royal red shrimp endorsements. The SBA established size criteria for all major industry sectors in the U.S. including fish harvesters and for-hire operations. A business involved in shellfish harvesting is classified as a small business if it is independently owned and operated, is not

dominant in its field of operation (including its affiliates), and its combined annual receipts are not in excess of \$5.5 million (NAICS code 114112, shellfish fishing) for all of its affiliated operations worldwide.

The Federal shrimp permit for the commercial harvest of penaeid shrimp in the Gulf exclusive economic zone (EEZ) has been placed under a moratorium since 2007 (71 FR 56039, September 26, 2006). At the start of the moratorium, 1,933 vessels qualified for and received the shrimp permits. Over time, the number of permitted shrimp vessels has declined, and in 2013 there were 1,546 such permitted vessels. The Gulf royal red shrimp endorsement is an endorsement to the Gulf Federal shrimp permit that allows Gulf shrimp permit holders to commercially harvest royal red shrimp in the Gulf EEZ. From 2008 through 2013, the total number of Gulf royal red shrimp endorsements averaged 344 annually, and as of November 26, 2014, there were 288 such endorsements in issuance.

From 2008 through 2013, the number of vessels with Gulf royal red shrimp endorsements that actually landed royal red shrimp ranged from four to nine and averaged six annually, which is significantly less than the number of vessels issued endorsements for those years. On average, during those years, a vessel with a Gulf royal red shrimp endorsement annually landed

29,688 lb (13,466 kg), tail weight, of royal red shrimp and 101,430 lb (46,008 kg), tail weight, of other shrimp species valued at \$170,073 and \$428,079, respectively. For the time period, the average vessel generated revenues of \$598,152 from all shrimp species. For the period of 2008 through 2013, royal red shrimp accounted for about 17.0 percent to 35.9 percent of all shrimp landings and about 18.7 percent to 44.7 percent of revenues from all shrimp species landed by vessels with royal red shrimp endorsements. All landings are heads off (tail weight) and all dollar values are in 2011 dollars.

Based on the revenue figures above, all vessels expected to be directly affected by this proposed rule are determined for the purpose of this analysis to be small business entities.

Since the recording of Gulf royal red shrimp landings started in 1962, the proposed ACL of 337,000 lb (152,861 kg), tail weight, has never been exceeded. In more recent years (2008-2013), royal red shrimp landings averaged about 168,000 lb (76,204 kg), tail weight, annually. Based on historical and current harvest conditions, it is unlikely that the proposed ACL would be reached or exceeded. As a consequence, the AM for royal red shrimp would also unlikely be triggered. This rule removes an inconsistency by eliminating the royal red shrimp quota and maintaining the ACL for triggering the AM, and would have no

effects on the profits of affected shrimp vessels. Therefore, it is expected that the measures contained in this proposed rule would have no effects on the profits of any affected shrimp vessels.

No duplicative, overlapping, or conflicting Federal rules have been identified. In addition, no new reporting, record-keeping, or other compliance requirements are introduced by this proposed rule. Accordingly, this rule does not implicate the Paperwork Reduction Act.

The information provided above supports a determination that this rule would not have a significant economic impact on a substantial number of small entities. Because this rule, if implemented, is not expected to have a significant economic impact on any small entities, an initial regulatory flexibility analysis is not required and none has been prepared.

List of Subjects in 50 CFR Part 622

Accountability Measures, Annual Catch Limit, Fisheries,
Fishing, Gulf of Mexico, Royal Red Shrimp, Shrimp.

Dated: January 20, 2015.

Samuel D. Rauch III,
Deputy Assistant Administrator for Regulatory Programs,
National Marine Fisheries Service.

For the reasons set out in the preamble, 50 CFR part 622 is
proposed to be amended as follows:

PART 622--FISHERIES OF THE CARIBBEAN, GULF OF MEXICO, AND SOUTH
ATLANTIC

1. The authority citation for part 622 continues to read as
follows:

Authority: 16 U.S.C. 1801 et seq.

§ 622.57 [Amended]

2. Section 622.57 is removed and reserved.

3. In § 622.58, paragraph (a)(1) is revised to read as follows:

§ 622.58 Annual catch limits (ACLs), annual catch targets (ACTs), and accountability measures (AMs).

(a) * * *

(1) Commercial sector. If commercial landings, as estimated by the SRD, exceed the commercial ACL, then during the following fishing year, if commercial landings reach or are projected to reach the commercial ACL, the AA will file a notification with the Office of the Federal Register to close the commercial sector for the remainder of that fishing year. When the commercial sector is closed, royal red shrimp in or from the Gulf EEZ may not be retained, and the sale or purchase of royal red shrimp taken from the Gulf EEZ is prohibited. This prohibition on sale or purchase during a closure for royal red shrimp does not apply to royal red shrimp that were harvested, landed ashore, and sold prior to the effective date of the closure and were held in cold storage by a dealer or processor. The commercial ACL for royal red shrimp is 337,000 lb (152,861 kg), tail weight.

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